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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,111	10/14/2003	Lanny R. Smith	40059-0007	6786
7590	07/27/2005		EXAMINER	
Kulaniakea Fisher Rader, Fishman & Grauer PLLC 10653 S. River Front Pkwy., Ste. 150 South Jordan, UT 84095			KIM, SANG K	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/686,111	SMITH, LANNY R.	
	Examiner SANG KIM	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,4,6-22,24 and 26-54 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,4,6-22,24 and 26-54 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 10/14/03 and 5/31/05 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "a drive unit configured to be coupled to a roll-up tube, a pool cover, and a rope" as recited in claim 13 and other claims such as, "the second position is disposed approximately 90 degrees from the first position," as recited in claim 45, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Applicant is advised that claimed language should correspond to the specification and vice-versa, in order to avoid confusion. Examples are listed below:

In claim 1, the terms “a reel unit, a drive unit, a gear drive assembly, a shift assembly..etc.” are used; however, the specification recites these terms as “a rope reel unit, a drive cone unit, a gear mechanism, a shift arm...etc.”

Applicant is advised to amend the claims and/or the specification to provide proper antecedent basis for the claimed subject matter. Applicant is advised to check rest of the claims and the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 4, 6-22, 24 and 26-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled

in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “a pivot member” in claim 1 is used by the claim to mean “a shift member” as recited in claim 13, while the accepted meaning is “a shift arm” as defined in the specification. The term is indefinite because the specification does not clearly redefine the term.

Applicant is advised to keep the terminology consistent throughout the claims and with respect to the specification as stated above. Appropriate correction is required. Applicant is advised to check rest of the claims and the specification.

Claim 1 recites the limitation “the rotatable drive shaft assembly” in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 is indefinite and vague. The phrase, “wherein the steps of driving the reel unit or the drive unit include pivoting a shift member to engage the reel unit or the drive unit,” is indefinite and vague. Which step is applicant referring to?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 44-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Ragsdale et al., U.S. Patent No. 5524302.

With respect to claims 44-45 and 48-50, Ragsdale '302 shows a rotatable drive shaft (18); a reel unit (26) for collecting a rope and mounted to rotate about the rotatable drive shaft (18); a drive unit (12) coupled to a roll-up tube (12) for collecting a pool cover and freely rotate about the rotatable drive shaft (18); and a gear drive assembly (i.e., a motorized drive assembly) driven by the rotatable drive shaft (18), the gear assembly including a shift assembly (30) configured to engage and drive the reel unit (26) as the rotatable drive shaft (18) moves in a first rotational direction (C) and to engage and drive the drive unit (12) as the rotatable drive shaft (18) moves in a second direction, wherein the shift assembly is (30, i.e., by moving and engaging the drive unit or the gear assembly from 0 to 180 degrees) is configured to be removably attached to the gear assembly at either a first position or a second position, as shown in figure 4.

With respect to claims 46-47, Ragsdale '302 shows a right handed pool cover motor assembly and a left handed pool cover motor assembly, see figure 13. Note: Applicant admits the prior art as shown in figures 1a-b show a right handed pool cover motor assembly and a left handed pool cover motor assembly.

Applicant is advised that the recitation that an element is "adapted to, capable of, configured...etc." perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

Allowable Subject Matter

Claims 1, 13, 21 and 31 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 2, 4, 6-12, 14-20, 22, 24, 26-30, 32-43 and 51-54 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Remarks

Claims 3, 5, 23 and 25 have been canceled.

Claims 36-54 have been added.

Applicant's remarks with respect to claims 1-2, 4, 6-22, 24 and 26-35 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amended claims necessitated the new grounds of rejection set forth above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 571-272-6947. The examiner can normally be reached Monday through Friday from 8:00 A.M. to 5:30 P.M. alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SK

7/19/05



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